

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
May 15, 2006

D045683 People v. Endita

The count 3 and 4 convictions are reversed and the remaining convictions (counts 1, 2, 5, 6, 7 & 8) are affirmed. The Superior Court is directed to amend the abstract of judgment to reflect such reversals and to forward a copy of the amended abstract to the Department of Corrections.
Huffman, J.; I Concur: McConnell, P.J., I Concur and Dissent McDonald, J.

D045970 Johnsen v. Johnsen

The judgment is affirmed. Irion, J.; We Concur: McConnell, P.J., Benke, J.

D046359 House of Blues Concerts, Inc. v. Redfearn

The order is affirmed. Irion, J.; We Concur: McConnell, P. J., Benke, J.

D046072 People v. Dunkley

The judgment is affirmed. McConnell, P.J.; We Concur: Nares, J., Irion, J.

**D048010 Vicky B. v. Superior Court of San Diego County/San Diego County Health
and Human Services Agency**

The petition is denied. Haller, J.; We Concur: McConnell, P.J., Benke, J.

D045571 Wedbush et al. v. Pacific Bell Telephone Company et al.

The petition for rehearing is granted. Absent an order of the court there will be no further briefing or argument.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
May 16, 2006

D047963 Manuel M. v Superior Court of San Diego County/San Diego County Health and Human Services Agency

The petition is denied. Benke, Acting P.J.; We Concur: Huffman, J., O'Rourke, J.

D048430 Patricia M. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorneys for petitioners Patricia M. and Joseph M. have notified the court that petitions for writ of mandate under California Rules of Court, rule 38.1 and 1436.5 will not be filed as there are no viable issues for writ review. The case is dismissed.

D048336 Zoila L. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Zoila L. has notified the court that a petition for writ of mandate under California Rules of Court, rule 38.1 and 1436.5 will not be filed as there are no viable issues for writ review. The case is dismissed.

D047032 Atkerson v. Imperial Irrigation District

The judgment is affirmed. IID is entitled to costs on appeal from Atkerson. McConnell, P.J.; We Concur: Huffman, J., McDonald, J.

D046925 People v. Williams

The judgment is affirmed. McConnell, P.J.; We Concur: Nares, J., McIntyre, J.

D046146 People v. Madrigal

Reversed. Irion, J.; We Concur: Nares, Acting P.J., Haller, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
May 16, 2006 (Continued)

D045107 People v. Villegas

The judgment is affirmed. McConnell, P.J.; We Concur: Nares, J., Irion, J.

D048325 Heather N. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Heather N. has notified the court that a petition for writ of mandate under California Rules of Court, rules 38.1 and 1436.5 will not be filed as there are no viable issues for writ review. The case is dismissed.

D046532 Flagg v. Corcoran, Jr. et al.

The petition for rehearing is denied.

D047038 People v. Inthavong

The judgment is affirmed. McIntyre, J.; We Concur: McConnell, P.J., Huffman, J.

Court convened at 10:00 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Joan Irion
Clerk: D. Moore

D041383 Apex Wholesale, Inc. v. Fry's Electronics et al.

Cause called on merits. Shawn Allen McMillan, Esq. argued for appellant/cross-respondent. Scott A. McMillan, Esq. argued for appellant/cross-respondent. James Drake Claytor, Esq. argued for respondent/cross-appellant. Mr. Shawn McMillan replied. Mr. Scott McMillan replied. Mr. Claytor replied. Cause to be submitted at a later date.

Court adjourned at 11:15 a.m.

D046312 People v. Wright

D046768 In re Wright on Habeas Corpus

The pending petition for writ of habeas corpus, *In re Joseff James Wright* (D046768) is consolidated with the pending appeal, *People v. Joseff James Wright* (D046312) for disposition.

D046312 People v. Wright

D046768 In re Wright on Habeas Corpus

(Consolidated) The judgment is reversed and the matter is remanded for further proceedings in accordance with this opinion. The petition is dismissed as moot in light of the disposition on appeal. McIntyre, J.; We Concur: McConnell, P.J., Aaron, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
May 16, 2006 (Continued)

D048204 In re Miracle C., a Juvenile

Upon filing a written abandonment of appeal, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal Rules of Court, rule 20(c)(2)).

D046327 People v. Harris

The petition for rehearing is denied.

D047951 In re Bosco on Habeas Corpus

The petition is denied.

D048144 In re Robinson on Habeas Corpus

The petition is denied.

**D047661 Chambers v. The Appellate Division of the Superior Court of San Diego
County/The San Diego Police Department**

The request for publication of the opinion is denied

.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
May 17, 2006

D046920 H.E.M.C. Environmental Management Corporation v. Chaldean American Association et al.

The judgment is affirmed. Respondents are entitled to their costs of appeal. McIntyre, J.;
We Concur: Nares, Acting, P.J., McDonald, J.

D046762 People v. Borja

The judgment is affirmed. Haller, J.; We Concur: Benke, Acting P.J., Nares, J.

D046559 In re the Marriage of Johnson

The order granting a protective order is affirmed. Benke, Acting P.J., We Concur: O'Rourke, J.,
Irion, J.

D048063 Aguilar v. Workers' Compensation Appeals Board and WAUSAU Ins. Co.

The petition is denied.

D047715 In re Santino W., a Juvenile

The orders are affirmed. McConnell, P.J.; We Concur: Benke, J., McDonald, J.

D046429 In re the Marriage of Fuesler

The judgment is affirmed. Parties to bear their own costs on appeal. Haller, Acting P.J.;
We Concur: O'Rourke, J., Irion, J.

D046439 Donner Management Company et al. v. Schaffer

The order is affirmed. Donner to pay Schaffer's costs on appeal. Haller, Acting P.J.;
We Concur: McDonald, J., O'Rourke, J. CERTIFIED FOR PARTIAL PUBLICATION

D047640 People v. Bernal

The judgment is affirmed. McIntyre, J.; We Concur: Nares, Acting P.J., McDonald, J.

D047539 In re Paul C., a Minor

The request for publication of the opinion is denied.

D046038 Polliart v. Ziasun Technologies Inc., et al.

Judgment affirmed. Appellant to pay respondents' costs on appeal. Haller, Acting P.J.;
We Concur: O'Rourke, J., Irion, J.

D047268 People v. Baltsas

The judgment is affirmed. McConnell, P.J.; We Concur: McIntyre, J., O'Rourke, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

May 17, 2006 (Continued)

D046857 In re Alve on Habeas Corpus

The trial court's order granting a writ is affirmed insofar as it directs the warden to set aside the department's adverse disciplinary finding; however, the order is reversed insofar as it directs that petitioner's records be expunged and sentence credits and privileges be restored and the trial court is directed to enter a new order remanding the matter to the warden for a new disciplinary hearing before an unbiased hearing officer at which petitioner is to be afforded the opportunity to appear and, under the direction of the person conducting the hearing, question all witnesses. Benke, Acting P.J.; We Concur: Huffman, J., McIntyre, J.

D046858 In re Alve on Habeas Corpus

The trial court's order granting a writ is affirmed insofar as it directs the warden to provide Alve with an administrative appeal from the work transfer; however, the trial court's order is reversed insofar as it directs that the disciplinary findings be set aside, petitioner's records be expunged and sanctions be vacated. On remand, and following the administrative appeal, the trial court may consider the validity of the administrative findings. Benke, Acting P.J.; We Concur: Huffman, J., McIntyre, J.

D047094 In re Francisco W., a Juvenile

The judgment terminating parental rights is reversed and the case is remanded to the juvenile court with directions to order Agency to comply with the notice provisions of ICWA, the relevant case law interpreting ICWA and the views expressed in this opinion, and to file all required documentation with the juvenile court for the court's inspection. If, after proper notice, a tribe claims Francisco is an Indian child, the juvenile court shall proceed in conformity with all provisions of ICWA. If, on the other hand, no tribe claims that Francisco is an Indian child, the judgment terminating parental rights shall be reinstated. CERTIFIED FOR PUBLICATION. Huffman, J.; We Concur: McConnell, P.J., McIntyre, J.

D048339 In re McNeal on Habeas Corpus

The petition is denied.

D048040 Cooley v. Superior Court of San Diego County/Harmatz

The petition is denied.

D048543 In re McNeal on Habeas Corpus

The petition is denied.

D046790 Victory Capital Holding Corporation v. Sharp

The order denying the Code of Civil Procedure section 425.16 motion is reversed. The trial court is directed to grant the special motion to strike. The trial court's denial of George A. Sharp's attorney fees request under Code of Civil Procedure, Section 425.16(c) is reversed, and the court is directed to rule on the merits of his request for attorney fees, including those incurred on appeal. George A. Sharp is awarded costs on appeal. O'Rourke, J.; We Concur: Nares, Acting P.J., Aaron, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
May 17, 2006 (Continued)

D048309 Kevin S. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Kevin S. has notified the court that a petition for writ of mandate under California Rules of Court, rule 38.1 and 1436.5 will not be filed as there are no viable issues for writ review. The case is dismissed.

D047022 In re Conservatorship of the Person of Christopher A

The opinion filed May 2, 2006, is ordered certified for publication. The attorneys of record are: Christopher Blake, under appointment by the Court of Appeal, for Objector and Appellant. John J. Sansone, County Counsel, and Leonard W. Pollard II, Senior Deputy County Counsel, for Petitioner and Respondent. The petition for rehearing is denied.

D048228 Rancho Mesa Residents, Inc. v. Superior Court of San Diego County/Manufactured Home Communities Inc., et al.

The petition is denied.

D048227 LV United, Inc. v. Superior Court of San Diego County/Manufactured Home Communities Inc., et al.

The petition is denied.

D048348 In re McNeal on Habeas Corpus

The petition is denied.

D048347 In re McNeal on Habeas Corpus

The petition is denied.

D045407 Silva v. SCM Group USA Inc., et al.

The Court has received and filed the parties' supplemental briefing. The order previously submitting the matter is vacated, the matter is resubmitted as of this date.

D047744 In re Chantilly P., a Juvenile

The judgment is affirmed. Haller, J.; We Concur: Nares, Acting P.J., Aaron, J.

D047195 Stephen v. Hernandez et al.

Upon filing a written abandonment of appeal, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 20(c)(2)).

D048313 Halliburton v. Superior Court of San Diego County/Remington College San Diego Campus

The petition is denied.

D048194 In re Norris on Habeas Corpus

The petition is denied. The request for appointed counsel is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
May 17, 2006 (Continued)

D048205 In re McNeal on Habeas Corpus

The petition is denied.

D048185 In re Pukahi on Habeas Corpus

The petition is denied.

D048135 In re McNeal on Habeas Corpus

The petition is denied.

D047568 Sanchez v. San Diego Unified School District

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 17(a). The appeal is dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
May 18, 2006

D048202 In re Quinton on Habeas Corpus

The petition is denied.

D048232 Barka v. Workers' Compensation Appeals Board and Safeco Insurance Company

The petition is denied.

D047043 El Cajon Police Officers Association v. City of El Cajon

The judgment is reversed with directions to the trial court to issue the writ of mandate and declaratory relief as prayed. Each party to bear its own costs. Huffman, J.;
We Concur: McDonald, J., McIntyre, J.

D048592 People v. Reeves

The notice of appeal is premature because no appealable order or judgment has yet been entered. The appeal is dismissed without prejudice to refile a notice of appeal after an appealable order or judgment has been entered.

D047790 In re Jenna M., a Juvenile

The appeal is dismissed. Benke, Acting P.J.; We Concur: Haller, J., Aaron, J.

D048121 Scripps Health v. The Superior Court of San Diego County/Tiernan

The petition is denied.

D047849 In re D. H., a Juvenile

The order is affirmed. McDonald, J.; We Concur: Benke, Acting P.J., McIntyre, J.

D048115 Stephen v. Cabayan et al.

Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 20(c)(2)).

D048321 San Diego City Attorney Michael J. Aguirre et al. v. The Superior Court of San Diego County/San Diego City Employees' Retirement System

The request for judicial notice is granted. The petition is denied. Petitioners have an adequate remedy by way of appeal.

D048116 Estate of Opal Mae Justice, Deceased

Because appellant did not timely pay the filing fee, the appeal is dismissed. (Cal. Rules of Court, rule 1(c)(5)).

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
May 19, 2006

D046855 People v. McCawley

The restitution order is affirmed. Irion, J.; We Concur: McConnell, P.J., O'Rourke, J.

D047265 People v. Martinez

The judgment is affirmed. Haller, J.; We Concur: McConnell, P.J., O'Rourke, J.

D045817 Harper etc. v. Business Advisors Inc., et al.

The order of March 15, 2006, submitting the above case is vacated to allow the court additional time to decide the issues. No further briefing is requested of the parties, the matter is resubmitted as of the date this order is filed.

D047898 People v. Hendricks

The judgment is affirmed. McIntyre, J.; We Concur: Benke, Acting P.J., Aaron, J.

D046147 People v. Shephard

D047699 In re Shephard on Habeas Corpus

The pending petition for writ of habeas corpus, In re Michael Anthony Shephard, D047699, is consolidated with the pending appeal, People v. Michael Anthony Shephard, D046147.

D047668 In re Alyssa D., a Juvenile

Affirmed. Irion, J. We Concur: Benke, Acting P.J., O'Rourke, J.

D048207 In re Wilkinson on Habeas Corpus

The petition is denied.

D048134 In re Reyes on Habeas Corpus

The petition is denied.